

MAY 25 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

In re: MAGED LOTFY ABU-ASSAL,

Debtor,

NADIA ABU-ASSAL; LOTFY ABU-
ASSAL,

Appellants,

v.

YACOUB NASHED,

Appellee.

No. 04-56048

BAP No. CC-03-01489-KMoP

MEMORANDUM*

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Perris, Montali, and Klein, Bankruptcy Judges, Presiding

Argued and Submitted April 7, 2006
Pasadena, California

Before: BRIGHT**, PREGERSON, and McKEOWN, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The Honorable Myron H. Bright, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

Nadia and Lotfy Abu-Assal appeal the order of the bankruptcy appellate panel, denying their motion to dismiss the fraudulent transfer and conspiracy claims of Yacoub Nashed. In particular, Nadia and Lotfy argue that Nashed's claims were all time-barred. We affirm.

The fraudulent transfer claim against Nadia was not barred by the statute of limitations. The limitations period was tolled until Nadia lost her appeal and the debt collection action became final. See Cortez v. Vogt, 52 Cal. App. 4th 917, 937 (Cal. Ct. App. 1997). Because the judgment became final in November 1998, see Cal. Civ. Proc. Code § 1049, and Nashed filed his fraudulent transfer claim against her in April 2002, it was timely. Cal. Civ. Code § 3439.09. The conspiracy claim against Nadia is also not barred by the statute of limitations. The same limitations period applies to both the conspiracy action and the underlying tort, and so Nashed's conspiracy claim against Nadia was timely filed. See Cortez, 52 Cal. App. 4th at 937; Cal. Civ. Code § 3439.09.

Finally, to the extent that the complaint extends to conspiracy claims against Lotfy, those claims were filed within the statute of limitations. Nashed's complaint alleges that Lotfy orchestrated numerous fraudulent transfers as late as 2002. Under any potentially applicable limitations period, Nashed's claim against Lotfy is timely. See id. § 3439.09.

AFFIRMED.